IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

MELISSA A. D.,

Plaintiff,

v.

Civil Action No.
3:20-CV-0115 (DEP)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES:

OF COUNSEL:

FOR PLAINTIFF

BINDER, BINDER LAW FIRM
485 Madison Avenue, Suite 501
New York, NY 10022

CHARLES E. BINDER, ESQ.
JOHN J. MORAN, ESQ.

FOR DEFENDANT

SOCIAL SECURITY ADMIN.
625 JFK Building
15 New Sudbury St
Boston, MA 02203

MOLLY CARTER, ESQ.

DAVID E. PEEBLES
U.S. MAGISTRATE JUDGE

ORDER

Currently pending before the court in this action, in which plaintiff seeks judicial review of an adverse administrative determination by the

Commissioner of Social Security ("Commissioner"), pursuant to 42 U.S.C. §§ 405(g) and 1383(3)(c), are cross-motions for judgment on the pleadings.[1] Oral argument was heard in connection with those motions on April 21, 2021, during a telephone conference conducted on the record. At the close of argument, I issued a bench decision in which, after applying the requisite deferential review standard, I found that the Commissioner's determination resulted from the application of proper legal principles and is supported by substantial evidence, providing further detail regarding my reasoning and addressing the specific issues raised by the plaintiff in this appeal.

After due deliberation, and based upon the court's oral bench decision, which has been transcribed, is attached to this order, and is incorporated herein by reference, it is hereby

ORDERED, as follows:

1) Defendant's motion for judgment on the pleadings is GRANTED.

[1] This matter, which is before me on consent of the parties pursuant to 28 U.S.C. § 636(c), has been treated in accordance with the procedures set forth in General Order No. 18. Under that General Order once issue has been joined, an action such as this is considered procedurally, as if cross-motions for judgment on the pleadings had been filed pursuant to Rule 12(c) of the Federal Rules of Civil Procedure.

2) The Commissioner's determination that the plaintiff was not disabled at the relevant times, and thus is not entitled to benefits under the Social Security Act, is AFFIRMED.

3) The clerk is respectfully directed to enter judgment, based upon this determination, DISMISSING plaintiff's complaint in its entirety.

David E. Peebles
U.S. Magistrate Judge

Dated: April 27, 2021
Syracuse, NY

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

MELISSA A. D.,

Plaintiff,

vs.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

CASE NO. 20-CV-115

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HON. DAVID E. PEEBLES
WEDNESDAY, APRIL 21, 2021
SYRACUSE, NEW YORK

FOR THE PLAINTIFF:
BINDER & BINDER
By: JOHN J. MORAN, ESQ.
485 Madison Avenue, Suite 501
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FOR THE DEFENDANT:
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By: MOLLY CARTER, ESQ.
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(Teleconference.)

THE COURT: Plaintiff has commenced this proceeding pursuant to 42 United States Code Sections 405(g) and 1383(c)(3) to challenge an adverse determination by the Commissioner of Social Security finding that plaintiff was not disabled at the relevant times and therefore is ineligible for the benefits that she sought.

The background is as follows. Plaintiff was born in April of 1973. She is currently 48 years old. She was approximately just about a couple weeks short of 33 years of age at the time of the alleged onset of her disability on March 15, 2006. Plaintiff stands five foot, three inches in height and has weighed between 140 and 220 pounds. She reported experiencing a 100-pound weigh gain attributable to the medications that she has been prescribed.

Plaintiff has four children. In April 2014, that included a 22-year-old son, 16-year-old daughter, 7-year-old daughter, and 4-year-old son. She lived at the time of the hearing in this matter in Johnson City with a fiancé, three of her children, and another man who helps.

She has completed ninth grade in school and achieved a GED. She was in regular classes at the time of attending school. She also has a little more than one year of college education. She went online to take college courses in 2017 or tried to. She is right-handed, and she drives.

Plaintiff stopped working in 2005 or 2006. The evidence is equivocal as to why. At page 52 at the hearing, she testified that she was laid off due to attendance issues, but in her function report 273, she stated that she was laid off due to lack of work. When she worked, she was a certified solderer, a cashier, and a waitress. She was fired from her waitress position after getting into an argument with her manager.

Plaintiff suffers from various mental impairments. They have been variously diagnosed as anxiety, anxiety disorder with agoraphobia, post traumatic stress disorder or PTSD, manic-depressive psychosis, bipolar disorder, panic disorder, personality disorder, and loss of interests.

Plaintiff has a history of sexual and physical abuse, of being the victim of those. She also has a history of alcohol and polysubstance abuse requiring treatment. Plaintiff was hospitalized in 2006 psychiatrically due to depression and suicidal ideation. That appears at 374 of the administrative transcript. Plaintiff is particularly afraid of open spaces including crossing parking lots.

Physically, plaintiff suffers from obesity, a back issue, and she had a broken bone in her ankle or foot in 2013. I do not understand, however, her claim to be related to limitations associated with her physical condition.

Plaintiff has treated with Nurse Practitioner Ryan Little of United Health Services since November of 2008. In

2010, it was reported at 501 she was seeing Nurse Practitioner Little monthly. In 2018, however, it appears that she was only seeing Nurse Practitioner Little between four, every four and six months. That appears at 835 and 842 of the administrative transcript.

Plaintiff also treated since March of 2013 with Dr. Arun, A-r-u-n, Shah, S-h-a-h, who she sees every three months. In 2006, she also saw professionals at Tricounty Human Services Center on seven occasions.

In terms of medication, plaintiff over time has been prescribed Lexapro, Buspar, Zoloft, Seroquel, Geodon, Valium, Paxil, Lamictal, Trazodone, Vistaril, Celexa, omeprazole, diazepam, paroxetine, l-a-m-o-t-r-i-g-i-n-e. She testifies that she experiences side effects from her medications including weight gain and fatigue.

Plaintiff has a fairly wide range of activities of daily living including caring for her children. She can dress, bathe, groom. She does dishes. She cleans. She cooks. She does laundry. She paints rooms in the interior of her house. She shops approximately one time per month, often with help. She drives. She can take public transportation. She watches television, and she reads.

This case has a fairly tortured and extensive procedural history dating back to June 11, 2010, when plaintiff applied for Title 2 and Title 16 benefits under the Social

Security Act alleging onset date of March 15, 2006. Her claim at page 273 was that she is disabled based upon her bipolar disorder and agoraphobia, also panic attacks and anxiety disorder.

A hearing was conducted on November 8, 2011, by Administrative Law Judge Marie Greener. Judge Greener issued an adverse decision on December 15, 2011. On July 5, 2013, the Social Security Administration Appeals Council remanded the matter on the basis that there was an insufficient explanation for rejecting the opinions of Nurse Practitioner Little and cosigned by Dr. Jimenez, and also there was a lack of testimony from a vocational exert with opinions as to job base erosion.

A subsequent hearing was conducted by ALJ Greener on April 17, 2014. Judge Greener issued another adverse determination July 22, 2014. On December 6, 2015, the Appeals Council denied review of that decision.

However, on September 29, 2017, United States District Court for the Middle District of Pennsylvania, Judge William J. Nealon, N-e-a-l-o-n, vacated the commissioner's determination and remanded the matter claiming there was insufficient discussion of why there was no limitation in the residual functional capacity finding involving attention, concentration, and attendance. So the Social Security Administration Appeals Council issued a subsequent decision on April 27, 2018, remanding the matter and directing it be assigned to a new

administrative law judge.

The matter was subsequently assigned to Administrative Law Judge Elizabeth Koennecke, K-o-e-n-n-e-c-k-e. Judge Koennecke on May 4, 2018, in response to the District Court's concern, requested updated information from plaintiff at 762 to 763. There was no further clarification or material submitted however.

Judge Koennecke conducted a hearing on January 9, 2019, and subsequently issued an unfavorable decision on February 13, 2019. That became a final determination of the agency on December 2, 2019, when the Social Security Administration Appeals Council denied plaintiff's application for review. This actions was commenced February 3, 2020, and is timely.

In her decision, Judge Koennecke applied the familiar five-step sequential test for determining disability. She first found that plaintiff was insured through December 31, 2010.

At step 1, she concluded plaintiff had not engaged in substantial gainful activity since March 15, 2006.

At step 2, ALJ Koennecke concluded that plaintiff does suffer from severe impairments that impose more than minimal limitations on her ability to perform basic work functions, stating that they are, quote, "all mental impairments as variously characterized."

At step 3, ALJ Koennecke concluded that plaintiff's

conditions do not meet or medically equal any of the listed presumptively disabling conditions set forth in the commissioner's regulations, specifically considering listings 12.04, 12.06, 12.08, and 12.15.

ALJ Koennecke next concluded that plaintiff maintains the residual functional capacity or RFC to perform a full range of work at all exertional levels with several nonexertional limitations addressing plaintiff's mental limitations.

The administrative law judge at step 4 concluded that based on the residual functional capacity, the plaintiff was not capable of performing her past relevant work as a wire worker, both as generally and actually performed at the time. At step 5, ALJ Koennecke concluded -- I'm sorry. At step 4, the administrative law judge concluded that plaintiff is capable of performing her past relevant work as a wire worker both as generally and actually performed.

As an alternative basis for finding no disability, the ALJ proceeded to step 5 and concluded based on the testimony of a vocational expert that plaintiff could also perform other available work in the national economy, representative positions being warehouse worker, laundry laborer, and evening industrial cleaner, and that plaintiff is therefore not disabled at the relevant times.

The Court's function in this case of course is limited and extremely deferential. The Court must determine whether the

correct legal principles were applied and the resulting determination is supported by substantial evidence, which is defined as such relevant evidence as a reasonable factfinder would conclude sufficient to support a finding.

The Second Circuit addressed the standard in Brault, B-r-a-u-l-t, versus Social Security Administration Commissioner, reported at 683 F.3d 443 from 2012, noting that the standard is highly deferential, more stringent than even the clearly erroneous standard that courts and lawyers are familiar with. Notably, the Court stated that the substantial evidence standard means that once an ALJ finds a fact, that fact can be rejected only if a reasonable factfinder would have to conclude otherwise.

The plaintiff in this case has two basic contentions. In the first, she claims that the RFC finding is unsupported and resulted from improper weighing of medical opinion evidence. Subsumed within that argument is the claim that the treating source rule was violated when Dr. Shah's opinion was not accorded -- opinions, I should say, were not accorded controlling weight.

The second argument raised by the plaintiff concerns the evaluation of plaintiff 's subjective complaints. The argument is that her complaints were improperly weighed and rejected.

Of course, the first order of business for an

administrative law judge such as ALJ Koennecke was to determine plaintiff's RFC. A claimant's RFC represents a finding of the range of tasks she is capable of performing notwithstanding the impairments at issue. An RFC determination is informed by consideration of all of the relevant medical and other evidence. 20 CFR Sections 404.1545(a)(3) and 416.945(a)(3). The RFC finding must include assessment of both a plaintiff's exertional capabilities as well as nonexertional limitations including those resulting from mental impairments. And of course, an ALJ's RFC determination, like all of the parts of the decision, must be supported by substantial evidence.

In this case, there is considerable opinion evidence in the record including two opinions reported at 12F and 22F of the administrative transcript from Dr. Arun Shah, a treating psychiatrist.

Dr. Shah on March -- I'm sorry, May 13, 2013, evaluated the plaintiff and concluded that plaintiff is markedly limited in many areas including the ability to maintain attention and concentration for extended periods, the ability to perform activities within a schedule and so forth, the ability to work in coordination or proximity to others without being unduly distracted, the ability to complete a normal workweek without interruptions, the ability to interact appropriately with the general public, the ability to get along with coworkers, and the ability to travel to unfamiliar places or use

public transportation. That opinion is at 514 through 521 of the administrative transcript.

A second opinion from Dr. Shah was given on March 28, 2014, and contains similar limitations in a checkbox format with many marked limitations.

Dr. Shah also issued a letter on June 11, 2013, that appears at 535 of the administrative transcript, stating that the plaintiff remains disabled. Of course, that doesn't include a function by function analysis and speaks to a matter that is reserved to the commissioner.

Dr. Shah is clearly a treating source as recognized by the administrative law judge. As a treating source, his opinions ordinarily would be entitled to considerable deference provided that his opinions are supported by medically acceptable clinical and laboratory diagnostic techniques and are not inconsistent with other substantial evidence. Veino, V-e-i-n-o, versus Barnhart, 312 F.3d 578, 588, Second Circuit 2002.

Such opinions are not controlling, however, if they are contrary to other substantial evidence in the record, including the opinions of other medical experts. Veino at 312 F.3d at 588. Where there are conflicts in the form of contradictory medical evidence, their resolution of course is properly entrusted to the commissioner.

If controlling weight is not given to a treating source's opinion, the ALJ must apply several factors that are

specified in the regulations, 20 CFR Sections 404.1527 and 416.927, the so-called Burgess factors, and the ALJ must provide reasons for the rejection.

Of course, under Estrella versus Berryhill, 925 F.3d 90 from Second Circuit 2019, in recognition of the fact that in most instances, the ALJ does not specifically list the Burgess factors, the Second Circuit has noted that the treating source rule is not violated if a searching review of the record reveals that the factors have been properly considered.

In this case, the administrative law judge discussed Dr. Shah's opinions at pages 595 to 596 and again at 599 of the administrative transcript. She concluded that the opinions were not supported by treatment records. She also noted that they were not supported by the cited global assessment on function or GAF scores recorded. Dr. Shah at page 514 listed the current GAF at 60 to 65, and although it may be an error, an obvious error, stated that the lowest GAF for the past year for the plaintiff was 75. At 555, the current GAF was listed at 60 to 65, and the lowest GAF in the past year was listed as 60.

Under the standard set out in DSM-4 -- and I understand that that standard no longer applies, but it did at the time of Dr. Shah's opinions -- a GAF of 61 to 70 represents some mild symptoms or some difficulty in social, occupational, or school functioning, but generally functioning pretty well, has some meaningful interpersonal relationships. 60, which is

at the high end of the 51 to 60 category, reflects moderate symptoms, more moderate difficulty in social, occupation, or school functioning.

The consideration of GAF scores is proper as one factor. It is certainly not the be all and end all, and in many respects, represents only a snapshot of plaintiff's functioning at any given time. But the Court in Leonard versus Commissioner of Social Security, 2016 Westlaw 3511780 from the Northern District of New York, May 19, 2016, approved of consideration of GAF score -- in that case, a score of 60 -- as inconsistent with the conclusion of serious limitations in maintaining attention, working without distraction, and adhering to standards of neatness and cleanliness. The Second Circuit affirmed that case at 2016 Westlaw 3512219 and noted in note 2 the relevance on a limited basis of GAF score.

In this case, this is not a situation where a treatment note is cherry-picked and it has a GAF score of a certain figure. This is a GAF score recorded by the very person that is issuing the opinions with the significant limitations. And moreover, it doesn't represent just a single snapshot because it reports the lowest GAF score in the past year in both instances. I think the ALJ properly considered those as a factor in weighing Dr. Shah's opinions.

The ALJ also noted the lack of deficits in attention and concentration reflected in treatment notes, the fact that it

was speculative when it comes to absences, and the significant gaps in treatment. There are essentially four gaps in treatment: October 2011 to March 2013, July 2014 to November 2015, November 2015 to July 2016, and July 2016 to March of 2017, a proper consideration.

The ALJ also noted that Dr. Shah found a marked limitation in the plaintiff's ability to perform -- to take public transportation, and yet she reported to one of the consultative examiners that she is -- and she testified she can take public transportation. In my view, the Burgess factors were properly considered. I am not able to say that a searching review of the record reflects a violation of the treating source rule in consideration of Dr. Shah's opinions.

The record also contains opinions from Nurse Practitioner Ryan Little. In 2011, November 2011, at page 501 to page 508, a checkbox form reflects that there are marked limitation in several areas including the ability to maintain attention and concentration for extended periods, the ability to perform activities within a schedule and maintain regular attendance, the ability to make simple work-related decisions, the ability to accept instructions and respond appropriately to criticism, the ability to get along with coworkers or peers, the ability to respond appropriately to changes in work setting, and the ability to be aware of normal hazards.

Nurse Practitioner Little also indicated that the

plaintiff is incapable of even a low stress position and would be likely absent more than three times a month. At pages 835 through 840, Nurse Practitioner Little provides an opinion from February 28, 2018, indicating similarly marked limitations in various areas and a likelihood that plaintiff would be absent two to three times per month.

On December 13, 2018, appearing at 842 to 847, Nurse Practitioner Little provided yet another assessment in a checkbox format, similarly finding marked limitations in many areas and a finding that plaintiff would be absent more than three times per month.

Nurse Practitioner Little signed or authored a "to whom it may concern" letter on July 13, 2017, that is cosigned by Dr. Domingo Jimenez. There's no indication in the record that Dr. Jimenez ever treated the plaintiff. It references anxiety disorder with agoraphobia and social anxiety. It finds marked limitations in several areas.

The record further contains some conclusory opinions from Nurse Practitioner Little. May 14, 2013, she is currently disabled from her mental health issues, a matter reserved to the commissioner. On May 26, 2011, at 531, plaintiff has been unable to work from 2009 until the present. Again, no function by function limitations and on a matter reserved for the commissioner, and once again, inability to work doesn't -- is not supported by any functional limitations cited. And

March 10, 2014, 554, similarly plaintiff is unable to work.

The opinions of Nurse Practitioner Little are comprehensively discussed by Administrative Law Judge Koennecke as 596, 597 and again at 598 to 599, not given significant weight. Of course, under the regulations that were in effect at the time, this action involving an application that was made prior to March 2017, Little is not an acceptable medical source, and once again, there's no evidence that Dr. Jimenez ever treated the plaintiff.

The ALJ properly rejected the nurse practitioner's opinions because the treatment notes do not support. There are many visits without any findings. There's lack of evidence of deficits in plaintiff's ability to concentrate and attention. The activities of daily living were properly considered when rejecting those opinions. Frankly, a modest number of relatively benign transcript notes with reference to any anxiety and depression.

I do acknowledge, as plaintiff has argued, that there are some treatment notes that reflect modest anxiety or depression levels, but that doesn't undermine the administrative law judge's decision. The question is not whether substantial evidence would support a finding of no disability or a finding of disability. The issue is whether substantial evidence supports the finding of no disability. I find no error in refusing to accord greater weight to the opinions of Nurse

Practitioner Little.

There are also some consultative examination results from examining and nonexamining consultants in the record. All were considered by Administrative Law Judge Koennecke. Dr. Sarah Long examined the plaintiff and issued an opinion on July 23, 2010. She opined that the plaintiff is able to follow and understand simple directions and instructions and to perform simple tasks independently. She is able to maintain attention and concentration and is able to maintain a regular schedule. She appears able to learn new tasks, perform complex tasks independently, make appropriate decisions, relate adequately to others, and is capable of adequate stress management. Her opinions are at 374 to 378 in the record. They are discussed at 594 and given some weight.

It is true that a consultative examiner's opinion can provide substantial evidence to an RFC finding if it is supported. Dr. Long's opinions are well supported by the exam findings and are consistent with a residual functional capacity finding.

There is a statement that plaintiff focuses on in the next paragraph on page 376. Quote, "The results of the present evaluation appear to be consistent with psychiatric problems, comma, which may, comma, at times, comma, interfere with her about to function on a regular basis," close quote. However, that statement is vague, and the medical source statement that I

just summarized is more specific when it comes to maintaining a schedule, for example, and concentration, and once again is supportive of the residual functional capacity finding.

The record also contains the opinion of Dr. Cheryl Loomis dated August 27, 2013, appearing at 523 to 527 of the administrative transcript. It is Dr. Loomis's opinion that there are some moderate impairments of the plaintiff and a marked impairment in her ability to maintain attention and concentration, perform complex tasks independently or under supervision, make appropriate decisions, relate adequately with others, and appropriately deal with stress. The opinion was discussed at pages 594 to 595 and given some weight.

As the administrative law judge noted, however, some of the conclusions including the marked impairment and the ability to maintain attention and concentration are inconsistent with the exam findings since at page 525, she assessed plaintiff's ability in the area of concentration and attendance as moderately impaired and spelled that out.

It also indicates in Administrative Law Judge Koennecke's consideration of Dr. Loomis's opinion, which she gave some weight, that it's based quite a bit on plaintiff's subjective statements, and in any event, is generally consistent with some exceptions to -- with the RFC finding.

There is also the opinion, two opinions of Dr. T. Harding, a nonexamining state agency consultant from

September 10, 2010. In the first Exhibit 3F, he considers. He applies the psychiatric review technique, finds the existence of some impairments, but finds that they do not meet the B or C criteria of the listings, finding a moderate limitation and restriction in activities of daily living, a moderate restriction in maintaining social functioning, and a moderate limitation to maintaining concentration, persistence, or pace at page 429.

Assessing plaintiff's residual functional capacity from a mental standpoint, Dr. Harding finds some moderate limitations at page 433 to 435, but summarizes as follows: CE examiner opines that claimant is able to perform simple tasks independently and maintain attention and concentration, is able to keep a regular schedule and learn new tasks and perform complex tasks independently and make appropriate decisions and relate adequately with others and is capable of dealing with stress. With respect to cognitive functioning, this opinion is consistent with the MER, the medical evidence in the file, and is adopted. And based on the medical evidence, quote, "Claimant retains the capacity for simple and semiskilled work," close quote.

That opinion of course is consistent with the residual functional capacity finding. It was discussed at pages 597 to 598 and given some weight. I find no error in conclusion in the weighing of the various medical opinions. Under Veino, it is

for the administrative law judge to weigh conflicting opinions, and it is plaintiff's burden to show greater limitations than set forth in the residual functional capacity, and I find that that burden is not carried.

Turning to the second argument, what we used to refer to as credibility, the evaluation of plaintiff's subjective complaints. Naturally an ALJ must take into account a plaintiff's subjective complaints in rendering the five-step disability analysis. 20 CFR Sections 404.1529 and 416.929.

The ALJ is not, comma, however, required to blindly accept the subjective testimony of a claimant. It is up to the ALJ instead in his or her discretion to weigh the credibility of the claimant's testimony in light of the other evidence in the record. Genier, G-e-n-i-e-r, versus Astrue, 606 F.3d 46, Second Circuit 2010.

In this case, the administrative law judge recounted plaintiff's claims at 591 and 592 and applied the required two-step analysis under Social Security Ruling or SSR 16-3P. The administrative law judge first concluded that plaintiff's medically determinable mental impairments could reasonably cause the symptoms reported, but found that plaintiff's testimony concerning those symptoms was not consistent with other medical evidence, explaining her ruling from 592 to 600, pointing out among other things that there was a lack of support from the clinical findings for the reported symptoms, the clinical

findings being relatively benign.

She also cited significant and multiple gaps in treatment, proper considerations under Landis P. versus Commissioner of Social Security, 2020 Westlaw 2770434 from the Northern District of New York 2020; as well as Camille versus Colvin, 652 Federal Appendix 25 from the Second Circuit 2016.

It is true that in some instances, there may be evidence that gaps in treatment have been caused by a mental condition, but there is little support, if any, in the record that this plaintiff could not, for example, retain a psychiatrist when recommended by Nurse Practitioner Little and could not attend treatment during those gap periods.

I note that plaintiff alleges an onset date of March of 2006, and yet her first significant treatment for her mental condition did not take place until November 2008 when she first consulted with Nurse Practitioner Little, and at that time or shortly thereafter, she declined Nurse Practitioner Little's recommendation to seek specialized care.

The reported symptoms are also inconsistent with the opinions of the consultative examiners and plaintiff's activities of daily living. It was noted that plaintiff has a poor work history, and the plaintiff was apparently laid off in 2005 due to lack of work rather than her mental condition. These are all permissible factors.

Administrative Law Judge Koennecke also based her

decision in part on observations of the plaintiff during the hearing in this matter. Simply put, I find that plaintiff has failed to carry her burden of demonstrating that no reasonable factfinder, or put another way, that a reasonable factfinder would have to find that plaintiff's complaints were credible.

So in conclusion, I reject plaintiff's arguments. I find that the determination of the administrative law judge was supported by substantial evidence and resulted from the application of proper legal principles. I will therefore grant judgment on the pleadings to the defendant and order dismissal of plaintiff's complaint.

Thank you both for excellent presentations. I enjoyed working with you. Please stay safe.

(The matter adjourned at 11:59 a.m.)

CERTIFICATION OF OFFICIAL REPORTER

I, JACQUELINE STROFFOLINO, RPR, Official Court Reporter, in and for the United States District Court for the Northern District of New York, do hereby certify that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 22nd day of April, 2021.

/s/ JACQUELINE STROFFOLINO

JACQUELINE STROFFOLINO, RPR

FEDERAL OFFICIAL COURT REPORTER